REMARKS

Claims 1-44 are pending. Claim 31 has been amended as to an informality, without narrowing its scope.

Claims 31 was rejected under 35 U.S.C. §112, second paragraph, as indefinite. As amended, the claim is clearly believed to meet the requirements of §112, second paragraph. It is requested that the rejection be withdrawn.

Claims 1-8, 14-21, 23-29 and 32-38 were rejected under 35 U.S.C. § 103 over U.S. Patent Pub. 2002/35534 (Buist et al.) in view of Reuters' Silverman patent U.S. 5,136,501. Claims 9-13 were rejected under 35 U.S.C. § 103 over Buist et al. in view of Silverman and further in view of U.S. Patent 6,519,574 (Wilton et al.). Claims 22 and 30 were rejected under 35 U.S.C. § 103 over Buist et al. in view of Silverman and further in view of U.S. Patent Pub. 2002/91617 (Keith). Claim 31 was rejected under 35 U.S.C. § 103 over Buist et al. in view of Silverman and further in view of Wilton et al. Claim 44 was rejected under 35 U.S.C. § 103 over Buist et al. and Silverman and further in view of U.S. Patent 6,317,727 (May) and official notice. Applicants traverse.

Applicants take this opportunity to thank Examiner Baird and SPE Kyle for the cordial and productive telephone interview with applicants' representative on August 5, 2009. During the interview, applicants' representative reiterated the points concerning the application of the previously-cited May reference made in the previous response, in particular the fact that May does not teach or suggest at least the feature by which the participant is actually notified of unused credit, that is, credit allocated to the auction, but not used in matched orders. It is noted that May is no longer applied in the current Office Action to claims 1, 14, 23 and 32.

Claim 1 recites, inter alia, the submission of credit limits specifically for an auction with the return of a notification of unused credit after the auction. Among other things, this provides the benefit of being able to allocate credit only for the period of the auction, so that credit is not tied up for long periods of time.

The system of claim 1 allows, for example, large amounts to be traded without unduly affecting credit limits. Orders are matched by conducting auctions at specified times. As well as submitting orders to an auction, participants are assigned credit limits for the duration of the auction, with unused credit being returned after the auction. As was pointed out in the previous response, this prevents credit being tied up for long periods of time and also avoids a rush into the market by executing matched orders against the benchmark price. Independent claims 14, 23, and 32 also recite a similar feature.

Buist appears to disclose an on-line auction for securities, but does not include the salient feature of independent claims 1, 14, 23 and 32 of assigning credit limits only for the duration of the auction, with unused credit being returned after the auction. However, the Office Action has taken the view that these additional features are disclosed in Silverman, in particular in the feature of Silverman of alerting participants when the remaining credit goes below a specified percentage of the overall credit limit (particularly, column 19, lines 32 to 57).

This portion of Silverman does not teach assigning credit for the duration of an auction, with the unused credit being returned afterwards, particularly as Silverman is *not* an auction system and has no concept of such a feature.

Moreover, applicants wish to emphasize that in Silverman, a credit limit alert informs a particular key station that it is trading dangerously low to assigned credit limits it has been given and that those trades are going to start blocking or inhibiting trades if nothing is done about changing them (see column 19, lines 40 to 44 of Silverman). The system of claims 1,14, 23 and 32 works in a very different way. In effect, it encourages participants to assign large amounts of credit as participants know that it need only be assigned for a (short) fixed period. In contrast, Silverman effectively encourages participants to assign only small amounts of credit because they know that they will get a warning if their credit is running low. The approach of the present invention is completely the opposite to this. It has the advantage that traders do not have to use their time reacting to low credit warnings or miss out on a trade if they do not top-up their credit in time.

For at least the foregoing reasons, claims 1, 14, 23 and 32 are believed clearly patentable over the cited art.

As regards independent claim 44, the Office Action does not appear to show a recognition that claim 44 relates to the *trading system itself setting benchmarks*, and not another entity such as the U.S. treasury (as in May). Claim 44 in response to the last office action to emphasize this feature, by stating that "one or more computer of the system fixing benchmarks..." The Office Action has not quoted the words "one or more computer of the system..." in its rejection of claim 44 and applicants cannot help but wonder if the limitation has been ignored.

Furthermore, May (at the portion cited in the Office Action) at column 41, lines 19 to 23, states that, "The US Treasury may issue new two year securities *each month*. For the first month, the new issue is the benchmark..." and the Examiner then goes on to take "official notice" that it would have been obvious to modify May to the use of trading intervals throughout the trading day.

This use of official notice is completely improper. The Examiner is not permitted to take official notice that something would have been obvious to do. Official notice may only be taken of factual matters that are capable of instantaneous verification, not legal determinations such as whether something would or would not have been obviousness. In view of the impropriety of this use of official notice, no prima facie case of obviousness has been set forth.

In any event, May discloses benchmarks being issued each month (by the US treasury). The system of claim 44 includes benchmarks being issued throughout the trading day (by the trading system). There would be no reason to have modified May in the claimed manner, at least because the US treasury does so on a monthly basis.

The other cited references of record are not believed by applicants to remedy the abovementioned deficiencies of the references discussed above as against the independent claims. For at least the foregoing reasons, the independent claims are clearly distinguishable over the cited art. The dependent claims are believed patentable for at least the same reasons as their respective base claims.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance.

Dated: December 14, 2009

Respectfully submitted,

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